

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
DEL RIO DIVISION

MARISOL HERNANDEZ §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. 2:15-cv-130
§
SCOTTSDALE INSURANCE COMPANY §
§
Defendant. §

NOTICE OF REMOVAL

Defendant, Scottsdale Insurance Company (“Defendant”), through undersigned counsel and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, files this Notice of Removal of the lawsuit captioned *Marisol Hernandez v. Scottsdale Insurance Company*; Cause No. 15-10-32086-MCV, in the 293rd Judicial District of Maverick County, Texas.

I. BACKGROUND

1. Plaintiff Marisol Hernandez initiated the present action by filing her Original Petition in Cause No. 15-10-32086-MCV, in the 293rd Judicial District of Maverick County, Texas on October 5, 2015 (the “State Court Action”). *See* Plaintiff’s Original Petition, attached as Exhibit A.

2. Defendant Scottsdale Insurance Company appeared and answered on December 4, 2015, asserting a general denial to the claims and allegations made in Plaintiff’s Original Petition. *See* Defendant’s Original Answer, attached as Exhibit B.

3. Pursuant to 28 U.S.C. § 1446(a), all process, pleadings, and orders served upon Defendant in the State Court Action not otherwise specifically identified as separate exhibits are incorporated in Exhibit A.

II. JURISDICTION

4. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332 and the matter is removable to this Court pursuant to 28 U.S.C. § 1441(a) because there is complete diversity of citizenship between the properly joined parties and the amount in controversy exceeds \$75,000 exclusive of interest and costs. This Notice of Removal is timely filed within 30 days of the filing of Defendant's Original Answer and less than one year after the commencement of this action.

A. Diversity of Parties

5. Plaintiff is domiciled in Maverick County, Texas. *See Exhibit A, ¶ 2.* Pursuant to 28 U.S.C. § 1332(a), Plaintiff is a citizen of the State of Texas.

6. Defendant Scottsdale Insurance Company is organized under the laws of Ohio and maintains its principal place of business in Arizona. Pursuant to 28 U.S.C. § 1332(c)(1), therefore, Defendant Scottsdale Insurance Company is a citizen of the States of Ohio and Arizona for purposes of diversity analysis.

7. Accordingly, there is complete diversity between the parties.

B. Amount in Controversy

8. Plaintiff's Original Petition states that Plaintiff seeks "monetary relief between \$200,000 (two-hundred thousand) and \$1,000,000 (one-million) dollars." *See Plaintiff's Original Petition, Exhibit A, ¶ 48.* The threshold for diversity jurisdiction, "where the matter in controversy exceeds the sum or value of \$75,000", is therefore exceeded under the express allegations of Plaintiff's Original Petition. *See 28 U.S.C. § 1332(a).*

III. CONCLUSION

9. Removal is proper because there is complete diversity between Plaintiff and Defendant, the amount in controversy exceeds \$75,000, and Defendant is not a citizen of the state in which this case was brought.

10. Pursuant to 28 U.S.C. § 1446(d), promptly after filing this Notice of Removal, Defendant will give written notice of the removal to Plaintiff through his attorney of record, and to the clerk of the 293rd Judicial District of Maverick County, Texas.

11. of this action under 28 U.S.C. § 1441(b) is proper as the district courts of the United States have original jurisdiction over the matter pursuant to 28 U.S.C. § 1332, and as all requirements for removal under 28 U.S.C. § 1446 have been met.

12. WHEREFORE, Defendant Scottsdale Insurance Company hereby provides notice that this action is duly removed.

Respectfully submitted,

/s/ Patrick M. Kemp
Patrick M. Kemp
Texas Bar No. 24043751
pkemp@smsm.com
Robert R. Russell
Texas Bar No. 24056246
rrussell@smsm.com
Segal McCambridge Singer & Mahoney
100 Congress Avenue, Suite 800
Austin, Texas 78701
(512) 476-7834
(512) 476-7832 - Facsimile

**ATTORNEYS FOR DEFENDANT
SCOTTSDALE INSURANCE COMPANY**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been served via certified mail, return receipt requested on this the 10th day of December, 2015 to:

Larry W. Lawrence, Jr.
Michael Lawrence
Lawrence Law Firm
3112 Windsor Road, Suite A234
Austin, Texas 78703
lawrencefirm@gmail.com

7196 9008 9111 1861 4808

Dan Cartwright
Lory Sopchak
Cartwright Law Firm, LLP
1300 Post Oak Blvd., Suite 760
Houston, Texas 77056
lory@dcartwrightlaw.net

7196 9008 9111 1861 4815

/s/ Patrick M. Kemp _____
Patrick M. Kemp